

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date March 14, 2019</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Opt 3, 4, and 7</p>	
<p>4. Subject Examination on the Treatment and Management of Ocular Disease</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b></p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The rules for licensure by examination, licensure by endorsement, and late renewal are being amended to clarify that applicants need to pass all parts of the National Board of Examiners in Optometry (NBEO) including the embedded portion in Part II, the Treatment and Management of Ocular Disease (TMOD) exam.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of the EIA.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmentnal units, or the state's economy as a whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The Optometry Examining Board requires that new license applicants pass Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examination. Part II of the NBEO has an embedded portion on the Treatment and Management of Ocular Disease (TMOD). The TMOD questions, "test knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye," in accordance with s. 449.04 (2), Stats. Therapeutic pharmaceutical agents include opioids, under s. 961.39, Stats. However, the passing score of Part II is determined as an overall score, so that applicants can fail the TMOD embedded</p>	

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questions yet pass Part II of the examination. The Board needs to amend the administrative rules for the health, safety, and welfare of the people of Wisconsin to clarify that applicants need to pass the TMOD portion as part of Part II.

If the administrative rules are not amended to clarify that new applicants are required to pass the TMOD portion, there may be licensed Optometrists who are authorized to prescribe therapeutic pharmaceutical agents, including opioids, who failed the TMOD questions on the board examination.

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### 16. Long Range Implications of Implementing the Rule

Optometrists licensed after 2006 have the authority under chapter 449 to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye. Under section 449.04 (2), Stats., applicants are required to be tested on, “knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye.” The TMOD embedded questions in Part II are an essential component of evaluating new applicants’ preparation for practicing Optometry competently in the State of Wisconsin.

Optometrists licensed before 2006 are required to pass the TMOD exam or its equivalent prior to being granted a therapeutic pharmaceutical agent (TPA) certificate, which provides the authority to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye. Thus, this rule project will ensure that the administrative rules are compliant with statute and consistent for all licensees.

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### 17. Compare With Approaches Being Used by Federal Government

The federal government schedules therapeutic pharmaceutical agents through the Controlled Substances Act, which categorizes optometrists as mid-level practitioners under Title 21, Code of Federal Regulations, Section 1300.01.

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### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

#### Illinois:

The Optometric Licensing and Disciplinary Board, under the Illinois Department of Financial and Professional Regulation, requires that, “[t]he examination for licensure as an optometrist in Illinois shall be Part I, Part II, including passage of the Treatment and Management of Ocular Disease (TMOD) section after January 1, 1996, and Part III of the examination administered by the National Board of Examiners in Optometry (NBEO).” Title 68, section 1320.40 (a), Illinois Administrative Code.

#### Iowa:

The Board of Optometry, under the Iowa Department of Public Health, requires that applicants “pass all parts of the NBEO examination in effect at the time of application.” 645-180.02 (1), Iowa Administrative Code. According to the NBEO website, that includes passing the TMOD independently of passing Part II, NBEO.

#### Michigan:

The Michigan Board of Optometry, under the Department of Licensing and Regulatory Affairs, requires that applicants submit passing scores on Parts 1, 2, and 3 of the National Board (NBEO) Examinations as well as the Treatment and Management of Ocular Disease (TMOD) Examination embedded in Part 2, in accordance with R 338.307 (3), Michigan Administrative Rules.

#### Minnesota:

The Minnesota Board of Optometry requires passage of the NBEO Parts I, II, III, and the TMOD. See General Information for applicants at [mn.gov/boards/optometry](http://mn.gov/boards/optometry).

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### 19. Contact Name

Helen Leong, Administrative Rules Coordinator

### 20. Contact Phone Number

(608) 266 - 0797

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**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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